

To the Members of the Scientific Jury

OPINION

by Prof. Dr. Ventsislav Petrov Stoyanov, Ph.D.

About the habilitation thesis by Assistant Professor Gergana Kostadinova Gozanska, Ph.D. "Bulgaria and the Legal Practice of the Permanent Court of International Justice and of the International Court of Justice" and the habilitation thesis by Stoyan Panteleev Memtsov, Ph.D. "Armed Humanitarian Intervention", published in 2019. On the occasion of their participation in a competition for the position of "Associate Professor" in International law and international relations at "P. Hilendarski" Plovdiv University, announced in State Gazette No 31/2019, area of higher education 3. Social Science, Economic Science and Law, professional field 3.6. Law

Dear Members of the Scientific Jury,

In the call for the position of Associate Professor in international law and international relations the candidate applied with a habilitation thesis on "Bulgaria and the jurisprudence of the Permanent Court of International Justice and the UN International Court of Justice", as well as with several articles, Chief Assistant. Dr. Gergana Gozanska, as well as Dr. Stoyan Memtsov, were admitted to participation by decision No. 111498 / 04.11.2021. of the SAC, who applied with the monograph "Armed Humanitarian Intervention" as well as with articles.

According to the requirement of of Article 24, paragraph 1, item 3 of ZRASRB, provided that a habilitation thesis has been submitted, the opinion will refer only to it. This applies to both candidates. Dr. Memtsov has presented a second monograph, but it is on the topic of his doctoral dissertation and therefore will not be considered as a separate work. First of all, the materials presented by Chief Assistant Dr. Gozanska, and then those of Dr. Memtsov, will be considered.

The monograph "Bulgaria and the jurisprudence of the UN International Court of Justice" is 197 pages long, including the literature used. The material is presented in four chapters, which deal successively with the advisory opinions and decisions of the two international courts related to Bulgaria. An introduction and a conclusion are added to them. The structure of the work used is classical and it is often applied in such research. This model makes it possible to set the main points in the introduction, to consider consistently the most important issues in individual chapters and finally to make summaries and conclusions.

Chapter one of the work deals with the advisory opinions of the Permanent Court of International Justice in relation to Bulgaria. At the beginning of this section, the League of Nations and Bulgaria's place in it are commented. Two advisory opinions are the subject of analysis. The first is from 1930 and is associated with the so-called Greek-Bulgarian communities. The author examines a problem created by the Convention between Greece and Bulgaria Respecting Reciprocal Emigration, signed in 1919. The various opinions in the scientific literature on the Convention are completely impartially examined, as the author cites those which regard the Convention as "extremely unfair to Bulgaria". However, the author's approach to the facts presented is essential. It seeks to clarify what is contained in the terms used, how the court interprets certain terms in the Convention, and so on. In this respect, the questions put to the court and its answers are considered. It is pointed out that in these answers the Permanent Court gives the first definition of "minority" in its practice. The author's opinion on the subject is a contribution to the study of international law and international relations.

The second advisory opinion discussed in the chapter is on the interpretation of the Mollov-Kafantaris Agreement. The agreement was signed on December 9, 1927 and settled the payments of the financial obligations of Bulgaria and Greece in compensation to the expatriates for their abandoned properties in both countries. To this day, this agreement has been the subject of legal regulation in art. 10 of the Law on Ownership and Use of Agricultural Land. The analysis of the advisory opinion is thorough and supported by voluminous facts.

The second chapter of the habilitation work examines the judgements of the Permanent Court of International Justice with respect to Bulgaria. The subject of analysis are two judgements related to the Treaty of Neuilly and more specifically to its interpretation. The judgements made in the period 1924-1925 had their significance not only for Bulgaria but also as the foundations of the court's practice in other cases. Another judgment under investigation concerns the case of the

Electricity Company of Sofia and Bulgaria (Bulgaria v. Belgium). In fact, the cause of this case was the granting of a concession for electric lighting and power supply to Sofia by the Sofia Municipality to a foreign company. This factual situation is essential, because even today there is considerable reliance on the awarding of concession sites and activities, and this has certain risk implications. No direct connection can be made between the present time and the period between the two world wars, but the common things between concessions, though different in time, cannot be ignored. The material is presented in great detail, the reasons for the judgment, the various proposals as well as the individual clauses of the decision are stated. As the judgement is of fundamental importance for the legal practice of the court, in a separate paragraph the author presents individual opinions to the judges of the panel, which, in my opinion, constitutes an indisputable contribution to the study. The analysis of opposing opinions enriches the scientific work, even when it comes to a court decision.

The third chapter of the habilitation work examines the advisory opinions of the United Nations International Court of Justice regarding Bulgaria. This chapter also begins with an introductory section commenting on the jurisdiction of this court. Here, the author outlines Bulgaria's path to UN membership, outlines the various issues before joining the organization, as well as the activities of our country after accession. Against this background, the main organs of the organization mentioned in its Charter, including the International Court of Justice, are examined. The statute of this court is an integral part of the UN Charter. Considerable attention is paid to the continuity between this court and its predecessor, the Permanent Court of International Justice. The similarities between the two institutions are examined as well as the court's judicial jurisdiction. It may be appropriate here to draw attention to a linguistic inaccuracy. On page 103 it is stated that the judicial jurisdiction of the court is not mandatory but optional. In its turn, this optional jurisdiction is divided into contractual and mandatory, i.e. the term "mandatory" reappears, despite the fact that several lines above have been denied. It seems to me that a more accurate statement could be found in this case. Chapter two of the statute of the court, designated "Jurisdiction of the court" gives such an opportunity.

The first advisory opinion discussed in the monograph is on the interpretation of the peace treaties with Bulgaria, Hungary and Romania of 1950. It has as its subject the interpretation of the Paris Peace Treaty of 1947. The author elaborates on the structure of the peace treaty itself, examines the individual clauses and outlines the various procedures for resolving possible disputes. The main accusations against Bulgaria were for human rights violations and specifically for the process of evangelical pastors. On this basis, the UN General Assembly referred four questions to the International Court of Justice. It is noteworthy that the author does not go into unnecessary controversy about the substance of the questions, but rather skillfully analyzes the very procedure of asking the questions and formulating the answers. It seems to me that this approach is highly appreciated, since from the point of view of the past time one or another qualification can easily be given, but for science itself it is important to consider objectively the facts and not the different opinions about them. In conclusion, the author, on the basis of the advisory opinions discussed, summarizes their importance for the legal practice of the International Court of Justice.

The final chapter, fourth, analyzes the judgements and orders of the United Nations International Court of Justice in relation to Bulgaria. They concern the case of the air incident of July 27, 1955, in which the Bulgarian air defense shot down an Israeli passenger plane over the territory of the country, which violated our air space. On this occasion, Israel, the United States, the United Kingdom, and Northern Ireland brought cases against Bulgaria in the International Court of Justice, with Israel's case against Bulgaria being the only one to end with a judgement and the rest – with court's orders.

The case of Israel v. Bulgaria is examined in detail, setting out the procedural actions and arguments of both parties. Without bias, the author analyzes the case and formulates the relevant conclusions. The same approach is applied to the consideration of individual opinions in the case of the aerial incident.

In general, the work is well written, with clear and precise language. The scientific apparatus used is sufficient. Certain notes may be made to the monograph, but they will not diminish its value.

The second participant in the competition for associate professor is Dr. Stoyan Panteleev Memtsov. He applied for the competition with the monograph "Armed Humanitarian Intervention". Apart from it, Dr. Memtsov presented another monography: "Kosovo - the problem of international legal status". However, this monograph largely duplicates Dr. Memtsov's doctoral dissertation and will therefore not be taken into account.

The Armed Humanitarian Intervention monograph is 236 pages long. There is a foreword, two parts, each with two chapters and a conclusion. The bibliography is placed at the end of the paper. The first part is entitled Use of force and international law. The first chapter in the part and the monograph is Jus ad bellum before the adoption of the UN Charter. It traces the development of the "right to wage war" from antiquity to modern times. The author aptly compares the different views (Cicero, St. Augustine the Blessed, etc.) on the possibility of war or "just war". The criteria for a just war, maintained in medieval philosophy, are also indicated. The basis of this philosophy is Christianity, and for Western Europe specifically Catholicism, so it is normal to consider the threat to Christendom as a reason to start a just war. Next, in chronological order, we consider the various legal concepts of just war that existed between the XVI-XIX centuries. The first section of Chapter One can be defined as a historical analysis of the theories of the grounds for warfare from Antiquity to the First World War.

The next section of this chapter deals with attempts to settle jus ad bellum between the two world wars. It is logical to focus the study on the establishment and operation of the League of Nations. Along with this, serious attention is paid to the Versailles and other peace treaties concluded between the victors and the vanquished. In these treaties, for the first time in international law, the perpetrator of war is identified and on this basis its responsibility is determined. The Covenant of the League of Nations is analyzed and on the basis of its provisions it is concluded that peace is the normal state of international relations, and war is permissible only in exceptional cases and when disputes cannot be resolved peacefully. The Waiver of War Pact is seen as a tool for public policy. The analysis states that according to the Covenant, even if the possibilities for peaceful settlement of disputes have been exhausted, resorting to war is illegal. In reality, however, the Kellogg-Brian Pact could not prevent the outbreak of World War II.

After the end of Chapter One, the notes to the chapter follow. The quotations under the footnote are mainly among them, which are summarized at the end of the chapter to find out what it is about. But this is a note to the editorial board of the paper, rather than in essence.

Chapter two is devoted to the use of force in the UN sphere. Thus, the study goes in its logical, chronological way from the past to the present. The first section of the chapter deals with the prohibition of the use of force. This is the main goal of the Charter of the Organization, in force since 1945. In the interest of truth, the author conscientiously considers various hypotheses in which the use of force is circumvented in an "appropriate way", but seems to avoid the conclusion of the extent to which the accepted position (non-use of force) can actually be observed. The notion of "threat of force or use of force" has been very carefully analyzed. It also examines various hypotheses of the use of force against the territorial integrity of any state or in any other way incompatible with UN

objectives. Special attention is paid to the right to individual or collective self-defense. In this part of the paper the opinion can be divided into two - on the one hand the reproduction of the text of the UN Charter and the opinion of the International Court of Justice are known facts to which only a reference can be made. However, this can in no way be interpreted as a negative attitude towards the work. The exhibition is full of examples that show that significant efforts have been made to collect source material, and this is an indisputable merit of the monograph. The main focus is on clarifying the concept of "armed attack". At the same time, the questions of necessity and proportionality in the use of force are raised. The study also presents different points of view, thus avoiding the one-sidedness of the analysis. The issue of the use of force under Chapter 7 of the UN Charter - threat to peace or violation of peace - is considered separately.

Part two of the monograph begins with an introduction entitled as the book itself - The Armed Humanitarian Intervention. It summarizes what was discussed in the previous section and draws attention to the operation carried out by NATO forces in 1999 against the FR of Yugoslavia. It is specified within what limits the rest of the research will be carried out, with the stipulation that the armed intervention will be considered only as an institute of international public law.

Chapter three of the monograph is devoted to the prohibition of the use of force in relations between states as a norm *ius cogens*. According to the author himself, the purpose of this chapter is to establish whether the prohibition of the use of force is a norm that is *ius cogens* and if so to establish the actual content of this norm - p.124. After setting the task, a thorough analysis of different points of view follows. On page 126 there is a detailed definition of an imperative norm (*ius cogens*) in international law that the prohibition of the use of force is not a norm that is *ius cogens*.

The last chapter of the monograph (fourth) is devoted to the armed humanitarian intervention in international positive law. It can be said that at the beginning of this chapter a general part is presented, which discusses different views on armed humanitarian intervention. There are several groups of opinions, which are presented in good faith by the author. As a separate section, the author's opinion is that the international custom has no subordinate or subsidiary effect to the international treaty in the system of sources of international law. That is why a separate section has been assigned - "Armed humanitarian intervention as a norm of international custom". This is followed by an examination of the various humanitarian interventions from Bangladesh to Kosovo.

The presentation concludes with a list of criteria for the admissibility of armed humanitarian intervention.

The monograph ends with a conclusion summarizing the results of the study.

Scientific work deals with an important problem of international law, current and permanent. It contains sufficient scientific information on the issues addressed in it. A rich scientific toolbox was used and knowledge was demonstrated in the professional field in which the competition was announced. The language is clear and precise and the book is easy to read. Some notes can be submitted to the work, but they will not reduce its value. In general, it can be noted that the monograph meets the requirements of Article 24 para. 3 of the ZRASRB for participation in the announced competition for associate professor of international law and international relations.

From the general review of the submitted documents of the two candidates, it is established that both of them meet the requirements of the ZRASRB for the holding of the academic position of "Associate Professor". According to the requirements of Art. 24 ZRASRB, both have held the academic positions of "assistant" and "chief assistant" for at least two years or have been

practitioners. Both candidates presented a published monograph. They meet the minimum national requirements under Article 2b paragraph 2 and paragraph 3. There is no legally proven plagiarism in scientific papers. Both of them apply in their works a reference for original scientific contributions, enclosing also the respective evidences. These are the listed requirements of Art. 24 of the law and both candidates meet them. Under equal conditions, the Scientific Jury must also take into account the overall assessment obtained in assessing certain additional indicators that are applicable to the area concerned.

The additional indicators, in the sense of Art. 27, Para 4 of the Development of Academic Staff in the Republic of Bulgaria Act (ZRASRB) are the following:

1. related to the educational activity;
2. related to the research activity;
3. related to the artistic or sports activity.

Obviously, in the present case, the additional indicators related to artistic or sports activities will not apply.

The first group of additional indicators are specified in Art. 27, Para 4. These are classroom and extracurricular activities; innovations in teaching methods; providing classes in a practical environment outside the university. According to the information presented by the Law Firm of P. Hilendarski University of Plovdiv, Chief Assistant Dr. Gergana Gozanska has 333 hours of lectures and 531 hours of seminars. Dr. Stoyan Memetsov has 36 hours of lectures and 330 hours of seminars. Regarding innovations in teaching methods, there is no information about both candidates. With regard to the provision of classes in a practical environment, this requirement is not applicable to the teaching of "law". Training in this state-regulated specialty is carried out in accordance with the Ordinance on uniform state requirements for higher education in "law" and professional qualification "lawyer" SG Issue 31/1996 Article 10 of this Ordinance explicitly provides for teaching practices in the respective courses and these are activities in a practical environment.

The second group of additional indicators are specified in Article 27, paragraph 4, item 1 (c) - work with students and doctoral students, including joint work with students and doctoral students in research projects. An official note was presented by Chief Assistant Dr. Gozanska that she had participated in four research projects. The projects are in the period 2015 - 2019/20. The certificate was issued by the Research and Design Department at the P. Hilendarski University of Plovdiv. Dr. Memtsov presented an official note that during the period 2017/2018 he was the head of the circle of international legal sciences at the Department of International and Comparative Law.

The other group of requirements is related to research. They are divided into several subsections:

According to Article 27, paragraph 4, item 2 (a), the first criterion of this group is membership in an authoritative creative and / or professional organization in the respective scientific field. - Arbitration Court - Plovdiv; Bulgarian Association for Comparative Law; United Nations Society. Dr. Memtsov did not provide such information.

The second criterion from this group is specified in Art. 27 Para 2 item 2 (b) about inventions and other intellectual property products. None of the candidates provided information on this criterion. Dr. Memtsov's scientific output includes 13 titles, including a monograph on the topic of his doctoral dissertation, and Chief Assistant Dr. Gozanska presented a list of 11 titles.

The analysis of the additional criteria shows that Chief Assistant Dr. Gergana Gozanska has more classroom employment than Dr. Stoyan Memtsov. She has more research projects than Dr. Memtsov. Chief Assistant Dr. Gozanska has stated participation in more creative and professional organizations. In view of the goals of the announced competition - lecturer (associate professor) at the Faculty of Law, we must take into account that Chief Assistant Dr. Gozanska has a longer teaching experience in this faculty.

#### CONCLUSION

Based on the analysis of the materials presented by the participants in the competition, I strongly recommend the Scientific Jury to propose to the Faculty Council of the Faculty of Law of University of Plovdiv to elect Assistant Professor Gergana Kostadinova Gozanska as Associate Professor of International Law and International relations, area of higher education 3. Social Science, Economic Science and Law, professional field 3.6. Law.

With respect:

V. Stoyanov